

## STATE OF VERMONT

In re ) Fair Hearing No. 17,381  
 )  
Appeal of )

# INTRODUCTION

The petitioner appeals the decisions by the Department of PATH terminating her daughter's Dr. Dynasaur benefits based on age and denying her VHAP benefits due to excess family income. The facts are not in dispute.

## FINDINGS OF FACT

1. The petitioner has earnings from employment of \$2,121.34 per month. She lives with her two children. Her daughter is a senior in high school and turned eighteen in October 2001. Her daughter had been receiving Dr. Dynasaur medical benefits.<sup>1</sup>

2. The Department notified the petitioner that her daughter's eligibility for the Dr. Dynasaur program would end because she had turned eighteen. The petitioner then applied for VHAP benefits in her daughter's behalf. The Department denied this application because it considers the petitioner's

<sup>1</sup> It appears that the petitioner's other child, who is under eighteen, remains eligible for Dr. Dynasaur benefits.

income available to her daughter and that income exceeds the VHAP maximum for a three-person household.

3. The petitioner does not dispute any of the figures used by the Department. Her daughter needs health insurance because she is engaged in ongoing mental health counseling.

ORDER

The decisions of the Department is affirmed.

REASONS

Section 3001.22 of the regulations governing the Dr. Dynasaur program specifies that only children under the age of eighteen meet the program's age-eligibility requirement, and: "At the end of the month in which the individual turns 18, this requirement is no longer met."

Section 4001.8 of the VHAP regulations provides: "An individual must be a member of a VHAP group with countable income under the applicable income test. . ." and that all "parents" and "children under age 21" must be included in the VHAP group. Earned income from wages is considered countable income for VHAP eligibility. W.A.M. 4001.81(b) and (c). The only deduction for which the petitioner is eligible is a standard employment expenses deduction of \$90.00 per month.

W.A.M. 4001.81(e). There are no deductions for medical expenses in the VHAP program.

It is not disputed that the petitioner has countable income of \$2,031.34 per month. The maximum for eligibility under the program for three-person household \$1,829 per month. P-2420 B (6). If the petitioner has income above that figure, no one in her household can be found eligible for VHAP.

W.A.M. 4001.83 and 4001.84.<sup>2</sup> As the Department's decisions are in accord with its regulations, the Board is bound to uphold those decisions. 3 V.S.A. 3091(d), Fair Hearing Rule 17.

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<sup>2</sup> There is no penalty under the regulations if a household voluntarily reduces its income to become eligible for benefits. The petitioner is free to weigh any loss of income against her family's medical expenses that would be covered by insurance if her income were to be reduced below the program maximum. If she decides to reduce her income she can reapply for VHAP on this basis.